IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

Crl.MC.No. 4034 of 2006()

CC.446/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY

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PETITIONER:

TAHIRA, D/O.ABDURAHIMAN MUSLIAR,
KAKKOTTIL HOUSE, NEELESWARAM AMSOM DESOM,
P.O.KALLURUTTY, KOZHIKODE TALUK.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: ACCUSED, COMPLAINANT & STATE:

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1. HARIS.K.,
KOONANGAL HOUSE, THALAPERUMANNA,
KARUAMPOYIL, KODUVALLI.

2. THE SUB INSPECTOR OF POLICE,
THAMARASSERI.

3. STATE OF KERALA REP.BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
ADV.SRI.SIBI THOMAS FOR R1.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.4034 of 2006

Dated this the 14th day of December 2006

O R D E R

The petitioner is the wife/defacto complainant in a prosecution under Section 498A I.P.C. The first respondent is the husband of the deceased. He, along with his parents/accused 2 and 3 were charge sheeted for the offence punishable under Section 406 and 498A I.P.C read with 34 I.P.C. The petitioner was not available for trial. The co-accused were tried and acquitted in C.C.No.167/05. The respondent/husband was not available for trial. Case against him has been split up and the same is pending as C.C.No.446/06 before the J.F.C.M-I, Thamarasseri.

2. The petitioner/defacto complainant has now come before this court with this petition under Section 482 Cr.P.C. It is submitted that the disputes have been settled. Divorce has been effected. Parties are residing separately. There is no dispute surviving between them. The petitioner has compounded the offence committed by the first respondent/accused. Annexure 2 is a copy of the notarised affidavit which the petitioner has sworn to accepting the compromise and acknowledging receipt of the amounts from the respondent.

3. The learned counsel for the petitioner submits and the learned counsel for the first respondent endorses that submission that the dispute between the parties have been settled and the petitioner

has compounded the offence allegedly committed by the first accused. I am satisfied from the submissions made at the Bar and the averments made in the petition as also from Annexure II that the parties have settled their disputes and the petitioner has compounded the offence allegedly committed by the first respondent. The offence under Section 498A is not compoundable but it is prayed that invoking the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386], further proceedings may be quashed.

4. The learned counsel for the petitioner vouches for the assertion that the petitioner has compounded the offence allegedly committed by the first respondent. I am satisfied in these circumstances that there has been settlement of disputes and composition of the offence by the petitioner. Though the offence under Section 498A is not compoundable, in the interests of harmony and in the light of such final settlement of disputes, I am satisfied that powers under Section 482 Cr.P.C can be invoked.

5. In the result:

a) This Criminal Miscellaneous Case is allowed.

b) C.C.No.446/06 pending before the J.F.C.M-I, Thamarasseri is quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006